

AMENDMENTS

Claims 2-10 are pending.

Claims 2, 6, and 10 have been amended.

Claim 1 has been cancelled.

Support for the amendments is found in the claims and specification, as originally filed. Specifically, the excluded compounds B(i) and B(iii) are explicitly enumerated on page 18, ln. 17-24 and pages 22-23, the bridging paragraph. *In the Johnson*, the court stated that the notion that one who fully discloses, and teaches how to make and use, a genus and numerous species there within, has somehow failed to disclose, and teach, that genus minus some species, and has thus failed to satisfy the requirement of 112, first paragraph, appears to result from a hypertechnical application of legalistic prose relating to that provision of the statute. 194 USPQ 187, 196 (C.C.P.A. 1977). All that happened is that appellants narrow their claims to avoid having them read on a lost the prior art. *Id.*

No new matter is believed to have been added.

REMARKS/ARGUMENTS

Applicants wish to thank Examiner Douyon for a discussion on December 9, 2009. The obviousness rejections were discussed in view of the proposed amendments. It was also explained that para-tert-butylcyclohexyl acetate has different properties compared to ortho-tert-butylcyclohexyl acetate.

Conventional hair compositions generally have a pH in the neutral range and contain little acid (page 1 of the present specification). In recent years, hair compositions having a pH in the acidic range (e.g., pH 1-5) to impart various functions have been developed. Acidic hair compositions can have a peculiar acid smell. When fragrances are simply added to conventional hair compositions, the compositions' odor balance deteriorates. The inventors have found that a combination of a musk with one or more ingredients of a specific chemical

structure in particular proportions can mask the acidic smell and that such acidic hair compositions have excellent long-term stability (pages 1-2 of the specification; see also the Examples Tables 2 and 5-15).

Claims 2 and 6-10 are rejected under 35 U.S.C. 103(a) over Trinh et al., US 5,849,310. The rejection is traversed because Trinh et al. do not describe or suggest the claimed compounds (B)(i), (B)(ii), and/or (B)(iii).

Trinh et al. describe a large variety of enduring perfume ingredients and compositions (col. 3-6, Table 1). Trinh et al. further describe personal cleaning liquid compositions. *See* the examples.

However, Trinh et al. do not describe the claimed compounds (B)(i) and (B)(iii).

Concerning the component B(ii), the Examiner has alleged that para-tert-butylcyclohexyl acetate has the same properties as the claimed ortho-tert-butylcyclohexyl acetate (page 5, last three lines to page 6, the first line of the Official Action). Applicants respectfully disagree.

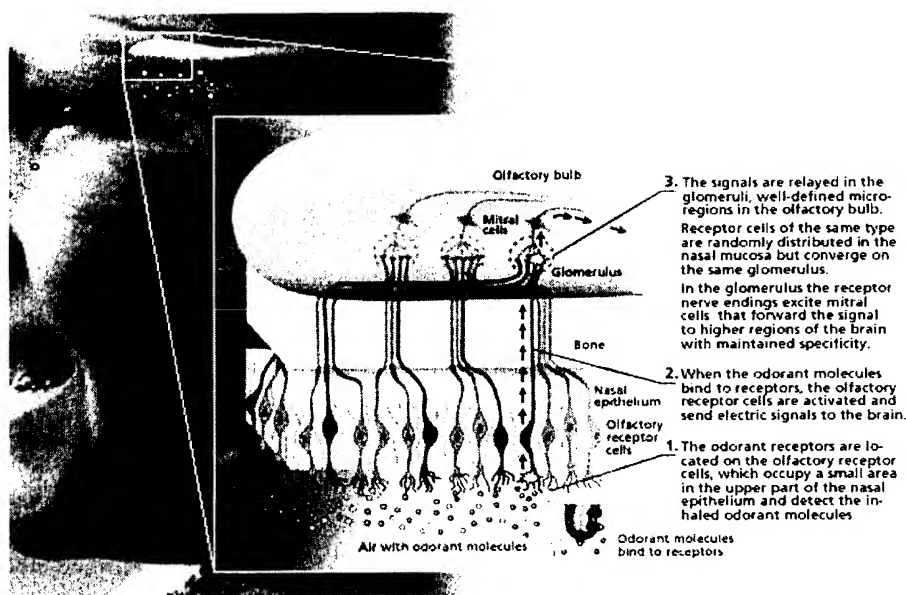
Not only do para- and ortho-tert-butylcyclohexyl acetates have different smell (sweet, creamy, woody, cedar, floral, herbal green for the para-compound *verses* fresh, piney, woody, fruity, green for the ortho-compound), but they also have different physical characteristics (e.g., color, solubility, boiling points, melting points, and flash points). *See* a product description by Chemtex International, Inc. (obtained from at <http://www.chemtexinternational.com>) submitted with this paper and the attached partial copy of “*Basic knowledge of Perfumes and Blending thereof*” showing that para- and ortho-tert-butylcyclohexyl acetates are classified differently (woody v. fruity).

Moreover, the ortho-compound is not classified as “enduring perfume” because according to Trinh et al., “enduring perfumes” have a boiling point of at least 250 °C, while the boiling point of ortho--tert-butylcyclohexyl acetate is 212-230 °C (see page 2 of the

product description for OTBCHA by Chemtex International, Inc. submitted with this paper obtained at <http://www.chemtexinternational.com/products/otbch.htm>).

In addition, it is known that different isomers of even the same compound can affect the olfactory system differently and possible smell of a compound is not obvious based on smell of a similar compound. More specifically, the perception of odor can be a complex process involving a number of sensory receptors. The complexity of the olfactory system was recognized in the award of the 2004 Nobel Prize in physiology or medicine to Drs. Richard Axel and Linda B. Buck (see the Nobel Prize Lecture of Linda Buck, December 8, 2004 "Unveiling the sense of smell" and Press Release at <http://nobelprize.org> attached with this paper for the Examiner's convenience), for their discoveries of "**odorant receptors and the organization of the olfactory system.**"

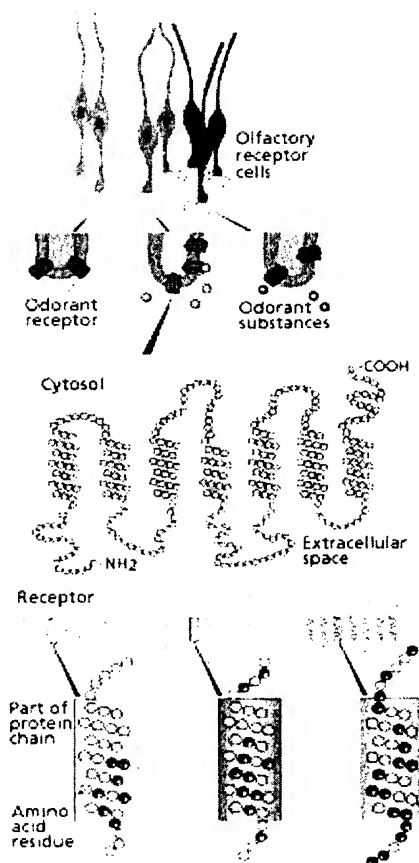
Their illustrated presentation illustrated the olfactory system as follows:



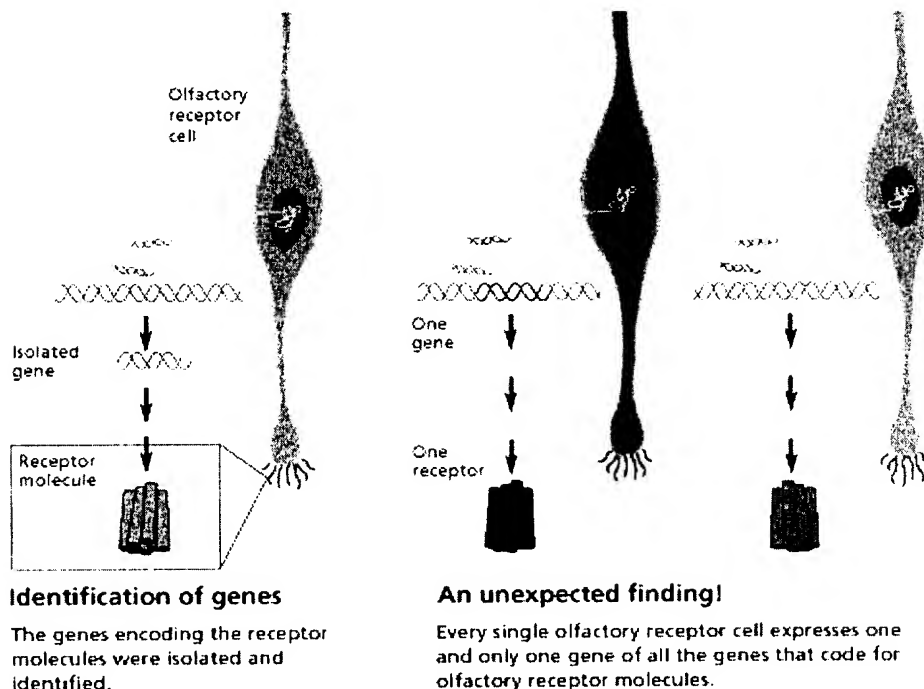
With reference to the figure below, each receptor consists of a protein chain that traverses the cell membrane seven times. When an odorant substance attaches to an olfactory receptor, the shape of the receptor protein is altered, leading to a G protein activation. An

electric signal is triggered in the olfactory receptor neuron and sent to the brain via nerve processes.

All odorant receptors are related proteins and differ only in some amino acid residues (indicated in green, blue and red). The subtle differences in the protein chains explain why the receptors are triggered by different odorant molecules.

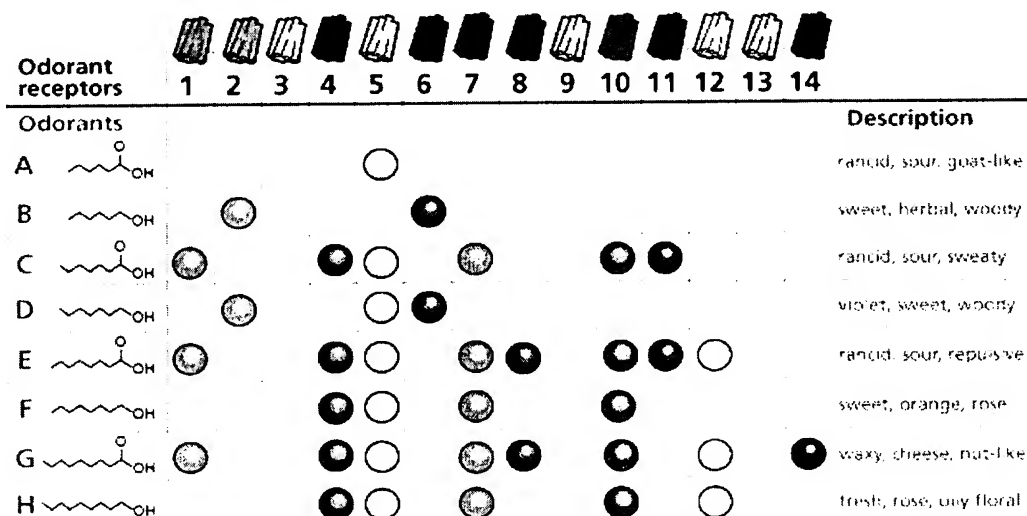


Axel and Buck discovered a large set of genes coding for olfactory receptors. This large gene family is composed of several hundred different genes encoding receptor molecules. These genes represent around three per cent of the total number of genes in mammals.



Further complicating the olfactory response is the reliance on a combination of receptors to produce a specific odor. The odorant receptor family is used in a combinatorial manner to detect odorants and encode their unique identities. Different odorants are detected by different combinations of receptors and thus have different receptor codes. These codes are translated by the brain into diverse odor perceptions.

The immense number of potential receptor combinations is the basis for our ability to distinguish and form memories of more than 10,000 different odorants.



MODIFIED AFTER LINDA BUCK AND COLLEAGUES IN CELL VOL 96, MARCH 5, 1999

Thus, given the highly complex relationship between a given odorant and its perceived odor the masking of any particular odor can be a daunting task as the underlying odorant/receptor interaction is not necessarily altered.

Thus, although Trinh et al. describe para-tert-butylcyclohexyl acetate, the claim ortho-tert-butylcyclohexyl acetate is not disclosed and is not obvious in view of the para-compound given the complexity of the olfactory system and smell perception, as described above.

Further, Trinh et al. do not describe a hair composition comprising tricyclodecenyl acetate.

Thus, the claimed liquid acetic hair composition wherein the fragrance composition comprises the components B(i), B(ii) and/or at least one o-tert-butylcyclohexyl acetate and tricyclodecenyl acetate are not anticipated by or obvious over Trinh et al.

Applicants request that the rejection be withdrawn.

Claims 2 and 6-10 are rejected under 35 U.S.C. 103(a) over Ishida et al., US 2003/0216283 and Trinh et al. The rejection is traversed because the combination of the references does not describe or suggest the claimed compounds (B)(i), (B)(ii), and/or (B)(iii).

The disclosure of Trinh et al. is described above.

Although Ishida et al. describe a virtually unlimited list of various compounds used for fragrance compositions, Ishida et al. do not describe specific claimed composition comprising the components (I)-(V) and (A)-(C).

Moreover, Ishida et al. is not a prior art reference under 35 U.S.C. 102(e) because its U.S. filing date is February 21, 2003, while the above-identified application is a national stage of PCT/JP03/10136, filed August 8, 2003, which claims benefit of JP 2002-234104, filed August 9, 2002. Applicants filed a certified copy of the priority application on February 4, 2005. A certified English translation of JP 2002-234104 is submitted with this paper.

Application No. 10/523,814
Reply to Office Action of October 26, 2009

Applicants request that the rejection be withdrawn.

A Notice of Allowance for all pending claims is requested.

Respectfully submitted,

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